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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Handie Ashman

COMMONWEALTH OF KENTUCKY
BARREN CIRCUIT COURT
CIVIL ACTION NO. 92-CRI-00427

ENTERED

MAY 26 1993

NANCY B. BOTTS, CLERK
By Handie Ashman D.C.

DAN BROADY, ET AL

PLAINTIFFS

VS

ORDER GRANTING SUMMARY JUDGMENT

CITY OF CAVE CITY

DEFENDANT

This matter is before the Court on Plaintiffs' Motion for Summary Judgment. It appears from the pleadings that there are no issues of fact to be decided. For a summary judgment to be granted, there can be no material issues of fact and the movant must be entitled to judgment as a matter of law. Kentucky CR 56.03. Since there is no issue of fact, the question before the Court is whether the Plaintiff is entitled to judgment as a matter of law because of the method that Defendant used to advise the public of the intention to annex the property.

KRS 81A.420(2) requires that the annexation ordinance be published but gives no guidance as to the definition of publication. However, case law does interpret the publication requirement to be that notice which conforms to KRS 424.130 and KRS 424.140. Merritt v. City of Campbellsville, (Ky. App. 678 SW 2d 788) 1984. Merritt also held that publication of KRS 81A.420 was insufficient notice to the interested parties for them to have a fair opportunity to oppose the annexation. Merritt at 790. Defendant, Cave City only published the annexation

(9)

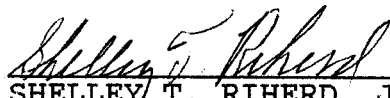
ordinance and did not give notice as to the parties' rights to remonstrate.

Since KRS 81A.420 requires publication and the publication requirements of KRS 424 were not met, the Plaintiffs are entitled to judgment as a matter of law.

THEREFORE, Plaintiffs' Motion for Summary Judgment is granted and the proposed annexation is void.

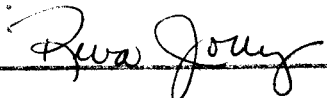
This is a final and appealable Order and there is no just cause for delay.

This 26 day of May, 1993.


SHELLEY T. RIHERD, JUDGE,
BARREN CIRCUIT COURT

CERTIFICATION OF COURT RECORDS

I, Shelley B. Botts, Clerk of the
Barren Circuit/District Court, do
certify that the foregoing are true and
correct copy(s) of the original document(s)
recorded in my office.
In testimony whereof witness my hand as Clerk
at Barren, this the 3 day of Nov.
2005.

By:  D.C.

CITY OF CAVE CITY, KENTUCKY
ORDINANCE NO. 91-01-08(A)

WHEREAS, by Ordinance Numbered 91-30-01 and dated January 30, 1991, the City Council of Cave City, Kentucky, declared its intent to annex the territory described herein, and WHEREAS, that Ordinance of intent to annex was published according to law on February 21, 1991, and

WHEREAS, more than sixty (60) days have elapsed since the enactment and publication of that Ordinance

WHEREAS, no petition has been received by the Mayor requesting an election on the proposed annexation pursuant to KRS 81A.420, now, therefore,

The City Council of Cave City, Kentucky, does hereby ordain as follows:

1. The following described territory is hereby annexed into the city of Cave City, Kentucky, and henceforth, for all purposes, is a part of the City of Cave City, Kentucky, to wit:

No. 1. Beginning at the Hart and Barren County line and running S 48 deg. 00 min. W 11,500 ft.; thence S 73 deg. 00 min. W 2500 ft.; thence S 88 deg. 00 min. W 1400 ft.; thence crossing Hwy. 70 and running S 1 deg. 00 min. W 400 ft.; thence N 89 deg. 00 min. E 1500 ft.; thence N 76 deg. 00 min. E 2400 ft.; thence S 36 deg. 00 min. E 4700 ft. to I-65; thence running with I-65 N 66 deg. 00 min. E 1100 ft.; thence N 62 deg. 00 min. E 1000 ft.; thence N 53 deg. 00 min. E 1000 ft.; thence N 45 deg. 00 min. E 2800 ft.; thence leaving I-65 and running S 87 deg. 00 min. W 3000 ft.; thence N 2 deg. 00 min. W 2500 ft.; thence N 83 deg. 00 min. E 2300 ft.; thence N 46 deg. 00 min. E 1000 ft.; thence N 35 deg. 00 min. E 1200 ft.; thence N 22 deg. 00 min. E 900 ft.; thence N 10 deg. 00 min. E 1800 ft.; thence N 2 deg. 00 min. E 2000 ft. to the beginning containing 1003 acres more or less.

No. 2. Beginning at I-65 and running S 36 deg. 00 min. E 4600 ft.; thence N 84 deg. 00 min. E 9300 ft.; thence N 30 deg. 00 min. E 5700 ft.; thence S 61 deg. 00 min. W 1000 ft.; thence N 53 deg. 00 min. W 1300 ft.; thence S 62 deg. 00 min. W 2700 ft.; thence S 23 deg. 00 min. E 400 ft.; thence S 61 deg. 00 min. W 500 ft.; thence S 21 deg. 00 min.

Exhibit

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E 500 ft.; thence S 65 deg. 00 min. W 1600 ft.;
thence N 37 deg. 00 min. W 32.00 ft.; thence S 48
deg. 00 min. W 1900 ft.; thence N 18 deg. 00 min. W
1300 ft.; thence S 76 deg. 00 min. W 600 ft.;
thence N 15 deg. 00 min. W 700 ft.; thence S 82
deg. 00 min. W 1000 ft. to I-65; thence running
with I-65 S 44 deg. 00 min. W 1400 ft.; thence N 53
deg. 00 min. W 300 ft.; thence S 53 deg. 00 min W
1000 ft.; thence S 62 deg. 00 min. W 1000 ft.;
thence S 66 deg. 00 min. W 1100 ft. to the
beginning containing 1279 acres more or less.

2. This annexation shall be effective upon final
passage of and publication of this Ordinance.

Done by the City Council of Cave City, Kentucky, this
1 day of August, 1991.

Chris L. Holden
MAYOR,
CITY OF CAVE CITY, KENTUCKY

First Reading

Date: 8-1-91
For: 4
Against: 0

Second Reading

Date: 8-5-91
For: 6
Against: 0

ATTEST:

Jewen Key
CITY CLERK
CITY OF CAVE CITY, KENTUCKY